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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------|-------------|----------------------|---------------------|------------------|
| 09/963,694 | 09/26/2001 | Cheryl M. Tyus | MEDI | 1584 |
| 23699 | 7590 | 12/13/2005 | EXAMINER | |
| CLAUSEN MILLER, P.C | | | PORTER, RACHEL L | |
| SUITE 1600 | | | ART UNIT | |
| 10S. LASALLE STREET | | | PAPER NUMBER | |
| CHICAGO, IL 60603 | | | 3626 | |

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/963,694

Applicant(s)

TYUS, CHERYL M.

Examiner

Rachel L. Porter

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/23/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 9/26/01. Claims 1-8 are pending.

Information Disclosure Statement

2. The Information Disclosure Statement filed 1/23/02 has been entered and considered by the Examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,2,5, and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (USPN 5,924,074).

[claim 1] Evans discloses a system for a system for capturing, archiving and transmitting medical images and their associated data, the system comprising:

- means for generating medical data, said medical data comprising both image data and textual data; (col. 5, lines 1-20; col. 6, lines, 1-5, Figures 13-14)

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- means for capturing the medical data, said capturing means comprising a software program and computer; (Figure 4, col. 6, line 10-col. 7, line 40—capture software and computer)
- means for storing the data in an archive; and (col. 8, line 19-col. 9, line 9, line 3—patient record, repository, and legacy system)
- means for transmitting the data to a user. (Figure 15a; col. 9, lines 17-37; line 41-col. 10, line 35)

[claim 2] Evans discloses a system further comprising means for querying numeric, character, logical, date and binary fields. (col. 10, lines 2-13; Figure 17B, col. 12, lines 35-53)

[claim 5] Evans discloses the system of claim 1 wherein the storage means is selected from the group consisting of a hard drive, floppy drive, a removable storage system, an optical storage system, a CD drive, a networked drive internal to the user, an array of drives, and a networked drive accessible via the Internet. (col. 8, line 19-col. 9, line 9, line 3; col. 12, line 56- col. 13, line 56; Figure 24)

[claim 7] Evans teaches a method of capturing and archiving medical data comprising the steps of:

- generating medical data using one or more input devices, said medical data comprising both image and textual data; (col. 5, lines 1-20; col. 6, lines, 1-5, Figures 13-14)

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- capturing the medical data from the input devices; (Figure 4, col. 6, line 10-col. 7, line 40—capture software and computer)
- storing the medical data in an archive that permits an institution to document an audit trail; and (col. 8, line 19-col. 9, line 9, line 3; —patient record, repository, and legacy system; col. 14, lines 43-50—audit trail)
- transmitting the medical data on demand to a user. (Figure 15a; col. 9, lines 17-37; line 41-col. 10, line 35)

[claim 8] Evans discloses the method of claim 7 wherein the medical data comprises imaging data, textual data and audio data. (Figure 14; col. 5, lines 1-28; col. 8, line 61-col. 9, line 14)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claim 1 above, and in view of Shipp (USPN 6,031,526).

[claim 3] Evans teaches a system wherein the medical data further comprises audio input (Evans: Figure 14; col. 8, line 65-col. 9, line 4—audio input), but does not expressly disclose that the system includes a voice recognition component. Shipp

discloses a system for generating medical data that includes a voice recognition component. At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Evans with the teaching of Shipp to include a voice recognition component. As suggested by Shipp, one would have been motivated to include this feature to allow a physician to automatically create a readable text record generated from his/her comments while performing a procedure on a patient. (col. 1, line 65- col. 2, line 2)

[claim 4] Evans discloses the system of claim 3 further comprising a system audio component to enable a user to store the audio input directly into the archive in a report format. (Evans: Figure 14; col. 8, line 65-col. 9, line 4)

7. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claim 1 above, and in view of Douglas et al (USPN 6,039,688)

[claim 6] Evans discloses the system of claim 1 and further discloses that the system use of a plurality of wireless and wired connections. (Figure 24) However, Evans does not expressly disclose that the system includes a videoconferencing feature. Douglas discloses a system further comprising a videoconferencing component to enable the user to provide healthcare services over distance utilizing a wired or wireless connection. (Figures 47-48; col. 19, lines 10-26) At the time of the Applicant's invention, it would have been obvious to one of ordinary skill in the art to modify the system of Evans with the teaching of Douglas to include a videoconferencing feature. One would

have been motivated to include this feature to facilitate real-time collaboration and consultation among patients and healthcare providers (See Evans: col. 2, lines 45-62).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


- Peltz (USPN 6,205,716) discloses a video conferencing system.
- DiRienzo (USPN 6,006,191) discloses a system for the remote exchange electronic medical images.
- Pinsky et al (USPN 5,469,353) discloses a method for the storage and exchange radiological images.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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